REMARKS/ARGUMENTS

The Office Action mailed December 1, 2003 has been carefully reviewed. Reconsideration of this application, as amended and in view of the following remarks, is respectfully requested. The claims presented for examination are: claims 1-17.

Claim Objections

Claims 2-5 were objected to because of repeated limitations.

Claims 2-5 have been cancelled.

35 USC 102 Rejection

In the Office Action mailed December 1, 2003, claims 1-17 were rejected under 35 USC 102(b) as allegedly being anticipated by Bartoletti. Claims 2-5 and 7-17 have been cancelled. Claims 1 and 6 have been amended to include the following limitations:

"· interpreting which files will be affected by the installation of said software patches",

"· interpreting which directories will be affected by the installation of said software patches",

"· interpreting the operating system type, version and architecture said software patches apply to",

"· interpreting dependencies on other layered products",

"· backing-out said software patches that have been applied to said client's systems",

"· collection of said patches and upgrades from said vendor's and downloading said patches and upgrades to client systems",

"· interpreting how much memory and disk space is needed to install software upgrades and installing said software patches",

"· determining how dependencies on other layered products affect the installation of said patches and upgrades",

"· determining how dependencies on other patches, or software upgrades affect the installation of a patch",

"· determining which files will be affected by the installation of a patch",

"· determining which directories will be affected by the installation of a patch", and

"· checking the permissions and ownership of the files referenced in the patch and ensuring that the system software is authentic".

The Bartoletti Reference

The Bartoletti Reference is an early paper by the inventors in the subject Application, Marcey L. Kelley, Lauri A. Dobbs, and Tony Bartoletti. The paper is a preliminary report describing the project that had been started and eventually produced the invention in the subject patent application. The paper describes the problems that are expected to be encountered and the approach the inventors intended to use in solving the problems. The paper did not describe a working system. The paper states in the Abstract on page 1, "The Secure Software Distribution System (SSDS) will ...." The paper states on page 6, lines 3-4, "The goal of the project is to develop a proof-of –concept prototype over several phases of development."

The Claimed Invention in this Patent Application

The invention as defined by Amended Claim 1 presented for examination provides a computer-implemented method of secure installation of vendor's software patches on client's systems. The method comprises the steps of determining which of said software patches should be applied to said client's systems, collecting said software patches from said vendors by downloading

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them from said vendor's ftp sites, interpreting which files will be affected by the installation of said software patches, interpreting which directories will be affected by the installation of said software patches, interpreting the operating system type, version and architecture said software patches apply to, interpreting dependencies on other layered products, interpreting how much memory and disk space is needed to install software upgrades and installing said software patches, backing-out said software patches that have been applied to said client's systems, distributing said software patches to said client's systems, and installing said software patches. The invention as defined by Amended Claim 1 is supported by a full description of how the method is implemented.

The invention as defined by Amended Claim 6 presented for examination provides a computer-implemented method of secure distribution of vendor's upgrades and patches to client's systems. The method comprises the steps of determining which of said software patches should be applied to said client's systems, collecting said software patches from said vendors by downloading them from said vendor's ftp sites, interpreting which files will be affected by the installation of said software patches, interpreting which directories will be affected by the installation of said software patches, interpreting the operating system type, version and architecture said software patches apply to, interpreting dependencies on other layered products, backing-out said software patches that have been applied to said client's systems, determining which of vendor's upgrades and patches have been applied to client's systems, determining which said software upgrades and patches should be or should have been applied to said clients systems, collection of said patches and upgrades from said vendor's and downloading said patches and upgrades to client systems, interpreting the operating system type, interpreting the operating system version, interpreting the operating system architecture the patch applies

to, determining how much memory is needed to install said patch and upgrades, interpreting how much memory and disk space is needed to install software upgrades and installing said software patches, determining how dependencies on other layered products affect the installation of said patches and upgrades, determining how dependencies on other patches, or software upgrades affect the installation of a patch, determining how dependencies on other software upgrades affect the installation of a patch, determining which files will be affected by the installation of a patch, determining which directories will be affected by the installation of a patch, checking the permissions and ownership of the files referenced in the patch and ensuring that the system software is authentic, distributing said software patches to said client's systems, and installing said software patches. The invention as defined by Amended Claim 6 is supported by a full description of how the method is implemented. Many of the method steps of Amended Claim 6 are not show or suggested by the Bartoletti Reference.

Applicant's Response to the 35 USC 102 Rejection

The Bartoletti Reference is not an "enabled reference." The invention defined by the method steps of Amended Claims 1 and 6 is not supported in the Bartoletti Reference by a description of how the method is implemented. As stated in the Bartoletti Reference on page 6, lines 3-4, "The goal of the project is to develop a proof-of-concept prototype over several phases of development."

McCarthy's Desk Encyclopedia of Intellectual Property, on page 113, in the description of enabling prior art, "To qualify as prior art, a reference must be enabling.... Prior art under 35 USC 102(b) must sufficiently describe the claimed invention to have placed the public in possession of it..." In re Donohue, 766 F. 2nd 531, 266 USPQ 619, 612 (Fed. Cir. 1985)

Many of the method steps of Amended Claims 1 and 6 are not shown or suggested by the Bartoletti Reference. For example, the step "backing-out said software patches that have been applied to said client's systems" of Amended Claim 6 is not shown or suggested by the Bartoletti Reference. The step "collection of said patches and upgrades from said vendor's and downloading said patches and upgrades to client systems" of Amended Claim 6 is not shown or suggested by the Bartoletti Reference.

As stated in <u>Verdegaal Bros. v. Union Oil Co. of California</u>, 814 F.2nd 628, 631 USPQ 1051, 1053 (Fed. Cir. 1987), "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." Since Many of the method steps of claims 1 and 6 now presented for examination are not shown by Bartoletti, Applicants submit that the rejection should be withdrawn, amended claim 1 allowed, and the application passed to issue.

SUMMARY

The undersigned respectfully submits that, in view of the foregoing amendments and the foregoing remarks, the rejections of the claims raised in the Office Action dated December 1, 2003 have been fully addressed and overcome, and the present application is believed to be in condition for allowance. It is respectfully requested that this application be reconsidered, that the claims be allowed, and that this case be passed to issue. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to call the undersigned attorney at (925) 424-6897.

Respectfully submitted,

Eddie E. Scott
Attorney for Applicant
Registration No. 25,220
Tel. No. (925) 424-6897

Livermore, California
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